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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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Fliesler Meyer LLP 650 California Street 14th Floor San Francisco, CA 94108			EXAMINER TRUONG, CAMQUY	
			ART UNIT 2195	PAPER NUMBER
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/788,802	Applicant(s) SOMOGYI, ALEXANDER J.	
	Examiner CAMQUY TRUONG	Art Unit 2195	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 2/27/04.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-11 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 2/27/04 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>11/15/04, 2/4/09</u> | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. Claims 1-11 are pending in this present application and they are presented for examination.

Drawings

2. The drawings filed on 2/27/04 have been acknowledged and acceptable.

Claim Objections

3. Claim 8 is objected to because of the abbreviation of "XA". Applicant is suggested to expand the "XA" abbreviation into "extended architecture".
4. The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d) (1) and MPEP § 608.01(o). Appropriate correction is required because the specification does not provide antecedent basis for "a computer data signal embodied in a transmission medium" as recited in line 1 of claim 4.

Specification

5. The specification fails to define the terminology "XA". It is old and well known in the art that the terminology XA is the abbreviation of "extended architecture", however,

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for the purpose of keeping the record clear and concise. Examiner suggests that the applicants should insert "extended architecture" in front or after "XA" in all occurrences.

6. The cross references related to the application cited in the specification must be updated (i.e. update the relevant status, with PTO serial numbers or patent numbers where appropriated, on page 2, lines 9-12).

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter, which the applicant regards as his invention.

7. Claims 1-2 are rejected under 35 U.S.C 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

A. The claim language in the following claims is not clearly understood:

i. Claim 1, it is not clearly understood whether " the second resource enlistment request ", recited in line 7, is the same as " a first resource enlistment request", recited in line 2. Lines 4 and 7, it is unclear how the step of "performing a block on the second resource enlistment request" can be performed since on line 4 indicated that the "the second resource enlistment request" already been received. It is uncertain who performs the "blocking step".

For examination purpose, Examiner interprets the limitation of “performing a block on the second resource enlistment request” as in the event that the system received first resource enlistment request and process the first resource enlistment request then the second resource enlistment request will be block from enlisted into the system regardless whether the second enlistment request is the same or different from the first enlistment request.

ii. Claim 2 recites the limitation of "A computer-readable medium, comprising" in line 1, renders the scope of the claim unascertainable because it is unclear what applicant intended to claim. If applicant intended to claim “mean for receiving”, and “means for performing” as software, then applicant should claim “A computer-readable medium storing instructions, comprising:” in line 1 of claim 2 and examiner will consider as such for examination purpose.

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

8. Claims 1-2, 4-11 are rejected under 35 U.S.C. 101 because they are directed to non-statutory subject matter.

Claim 1 defines "System" in preamble and the body of the claim recites "mean for receiving", "means for performing a block". The specification mentions

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the transaction manager may receive an enlistment request, and transaction manager will block the enlistment request (page 8, lines 2-6), the transaction manager is implementing by software modules (paragraph 15, line 20- paragraph 16, line 2). Thus, transaction manager appear to be software module. Therefore, claim 1 is non-statutory because it recites a claim that comprises software per se embodiment.

Claim 2 defines “a computer-readable medium” in preamble and the body of the claim recites “means for receiving enlistment request”, “mean for performing a block”. The specification mentions the transaction manager may receive an enlistment request, and transaction manager performing a block the enlistment request (page 8, lines 2-6), the transaction manager is implementing by software modules (paragraph 15, line 20- paragraph 16, line 2). Thus, transaction manager appear to be software module. Therefore, claim 1 is non-statutory because it recites a claim that comprises software per se embodiment.

Claim 4 defines “a computer data signal embodied in a transmission medium”. Transmission medium are incapable of being touched or perceived absent the tangible medium through which they are conveyed; therefore, claim 4 are non-statutory.

Claim 5 are rejected under 35 U.S.C. 101 because the claimed invention is directed to a computer program product claim, appearing to be a software alone without claiming the computer program product is stored and executed by

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an associated computer hardware. Therefore, claim 5 is non-statutory because they recite claims that comprise software per se embodiments.

Claims 6-11 failed to cure the deficiency of claim 5. Therefore, they are rejected under 101 as claim 5 above.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

9. Claims 1-7, 9-10 are rejected under 35 U.S.C. 102(e) as being anticipated by Kamath et al. (U.S. 6,754,696 B1) (hereinafter Kamath).

10. As to claim 1, Kamath teaches the invention as claimed including: a system for protecting against interleaving transactions, comprising:

means for receiving a first resource enlistment request from a resource in a first thread (a server sends the enlist request primitive via broadcast, col. 8, lines 5-7/ the client sends an enlist request primitive via broadcast, col. 9, lines 15-16);

means for receiving a second resource enlistment request from the resource in a second thread, the second enlistment request received after the first enlistment request is received (sending a directed enlist request to each Extended File System-Name Server (XFS-NS) which did not response to broadcast request, col. 8, lines 32-34; col. 9, lines 52-56 /reissue the enlist request, col. 8, lines 20-21); and

means for performing a block on the second resource enlistment request (a server sends the enlist request primitive via broadcast, an enlist request primitive via broadcast ;then, provide some time duration for response of the server... sending a directed enlist request to each XFS-NS which did not response to broadcast request col. 8, lines 5-44. The directed enlist request will not be sent to those XFS-NS which did response; Thus, Kamath is inherently disclosed blocking on the second resource enlistment request).

11. As to claim 2, it is rejected for the same reason as claim 1.

12. As to claim 3, it is rejected for the same reason as claim 1.

13. As to claim 4, it is rejected for the same reason as claim 1.

14. As to claim 5, it is rejected for the same reason as claim 1.

15. As to claim 6, Kamath teaches:

computer code for initiating (to enlist, when a server starts up, it sends a broadcast of an enlistment request, col. 7, lines 8-9) an end method on the first resource in the first thread (if the number match, the enlistment process ends, col. 8, lines 27-28) ; and

computer code for removing the block on the second resource enlistment request in the second thread (a server sends the enlist request primitive via broadcast, an enlist request primitive via broadcast ;then, provide some time duration for response of the server... sending a directed enlist request to each XFS-NS which did not response to broadcast request col. 8, lines 5-44).

16. As to claim 7, Kamath teaches:

computer code for initiating a start method on the first resource (to enlist, when a server starts up, it sends a broadcast of an enlistment request, col. 7, lines 8-9);

computer code for receiving a first resource delistment request from the first resource (to withdraw from participation, an XFS server (e.g., 76.sub.2) sends a Defect primitive to notify the XFS-NS that is no longer wishes to participate in the XFS system col. 8, lines 46-57);

computer code for initiating an end method on the first resource (if the number match, the enlistment process ends, col. 8, lines 27-28).

17. As to claim 9, Kamath teaches the first resource enlistment request includes a first transaction identification (sending an enlist primitive to notify the name server (XFS-

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NS) that it wants to begin participation in XFS system, col. 7, lines 44-47).

18. As to claim 10, Kamath teaches the first resource delistment request includes a first transaction identification (sending a Defect primitive to notify the name server (XFS-NS) that is no longer wishes to participate in the XFS system, col. 8, lines 46-50).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

19. **Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kamath et al. (U.S. 6,754,696 B1) (hereinafter Kamath), as applied to claim 5 above, in view of Verma et al. (U.S. 6,856,993) (hereinafter Verma).**

20. As to claim 8, Kamath does not explicitly teach computer code for receiving a first resource enlistment request from a resource in a first thread over an XA protocol interface. However, Verma teaches receiving a first resource enlistment request from a resource in a first thread over an XA protocol interface (when the transaction is a new transaction not listed in the table 86, enlistment with the transaction coordination 76 is required by using XA protocols, col. 7, lines 44-52).

21. It would have been obvious to one of ordinary skill in the art at the time the invention was made that to modify the teaching of Kamath by incorporating the teaching of receiving a first resource enlistment request from a resource in a first thread over an XA protocol interface as taught by Verma in order to gain the advantage of reducing the overall time of performing XA interactions in two-phase commit protocol implemented by the transaction manager.

22. Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kamath et al. (U.S. 6,754,696 B1) (hereinafter Kamath), as applied to claim 5 above, in view of Comeau et al. (U.S. 2001/0049726) (hereinafter Comeau).

23. As to claim 11, Kamath does not explicitly teach computer code for using Java monitor to block enlistment requests to the resource. However, Comeau teaches computer code for using Java monitor to block enlistment requests to the resource (Java provide monitors that block thread to prevent more than one thread from entering an object, paragraph 56, lines 1-5).

24. It would have been obvious to one of ordinary skill in the art at the time the invention was made that to modify the teaching of Kamath by incorporating the teaching of computer code for using Java monitor to block enlistment requests to the resource as taught by Comeau in order to gain the advantage of preventing potentially corrupting data (paragraph 56).

19. Claims 1- 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kamath et al. (U.S. 6,754,696 B1) (hereinafter Kamath) in view of Agasaveeran et al. (U.S. 7,484,011 B1).

As to claim 1, Kamath teaches the invention substantially as claimed including: a system for protecting against interleaving transactions, comprising:

means for receiving a first resource enlistment request from a resource in a first thread (a server sends the enlist request primitive via broadcast, col. 8, lines 5-7/ the client sends an enlist request primitive via broadcast, col. 9, lines 15-16);

means for receiving a second resource enlistment request from the resource in a second thread, the second enlistment request received after the first enlistment request is received (sending a directed enlist request to each Extended File System-Name Server (XFS-NS) which did not response to broadcast request, col. 8, lines 32-34; col. 9, lines 52-56 /reissue the enlist request, col. 8, lines 20-21).

20. Kamaht does not explicitly teach means for performing a block on the second resource enlistment request. However, Agasaveeran teaches means for performing a block on the second resource enlistment request (If the computerized device 100 finds the IP address of the connection requestor in the static IP access list, the computerized device 100 blocks the connection request, col. 11, lines 4-11; col. 12, lines 62-66).

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21. It would have been obvious to one of ordinary skill in the art at the time the invention was made that to modify the teaching of Kamath by incorporating the teaching of performing a block on the second resource enlistment request as taught by Agasaveeran in order to gain the advantage of minimize the accumulation of connection overhead from ultimately unsuccessful connection requests results in efficient operation of computer systems.

22. As to claim 2, it is rejected for the same reason as claim 1.

23. As to claim 3, it is rejected for the same reason as claim 1.

24. As to claim 4, it is rejected for the same reason as claim 1.

25. As to claim 5, it is rejected for the same reason as claim 1.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to CAMQUY TRUONG whose telephone number is (571)272-3773. The examiner can normally be reached on 9:00am - 5:30pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Meng Ai An can be reached on (703)305-9678. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Meng-Ai An/
Supervisory Patent Examiner, Art Unit 2195

Camquy Truong

October 17, 2008